the Federal Rules of Civil Procedure or by the work product documents doctrine.

(b) Regardless of the claim's nature or the statute under which it may be considered, letters denying claims on jurisdictional grounds that are valid, certain, and not easily overcome (and for this reason no detailed investigation as to the merits of the claim was conducted), must state that denial on such grounds is not to be construed as an opinion on the merits of the claim or an admission of liability. In medical malpractice claims, the denial should state that the file is being referred to U.S. Army Medical Command for review. If sufficient factual information exists to make a tentative ruling on the merits of the claim, liability may be expressly denied.

NOTE TO § 536.65: See § 536.53, on denying a claim for failure to substantiate. In addition, the procedures and rules in DA Pam 27–162, paragraph 2–69, settlement and approval authority, apply equally to the denial of claims. See also DA Pam 27–162, paragraph 2–75.

§ 536.66 The "Parker" denial.

(a) When suit is filed before final action is taken on a subpart D of this part claim, a denial letter will be issued only upon request of DOJ or the trial attorney. If suit is filed prematurely or in error, the claimant may be requested to withdraw the suit without prejudice. Such a request must be coordinated with the trial attorney.

(b) Claimants who have filed companion claims should be notified that, due to suit being filed, no action can be taken pending the outcome of suit and they may file suit if they wish.

NOTE TO § 536.66: For further discussion see DA Pam 27–162, paragraph 2–76.

§ 536.67 Mailing procedures.

Thirty or sixty day letters seeking information from claimants, final offers and denial notices are time-sensitive as they require a claimant to take additional action within certain time limits. Accordingly, follow procedures to ensure that the date of mailing and receipt of a request for reconsideration are documented. Use certified mail with return receipt requested (or registered mail, if being sent to a foreign country other than by

the military postal system) to mail such notices. Upon receipt, an appeal or request for reconsideration will be date-time stamped, logged in, and acknowledged as set forth in § 536.68.

NOTE TO § 536.67: See also AR 27–20, paragraph 13–5, and DA Pam 27–162, paragraph 2–77.

§ 536.68 Appeal or reconsideration.

(a) An appeal or a request for reconsideration will be acknowledged in writing. A request for reconsideration under subpart D of this part invokes the six-month period during which suit cannot be filed, 28 CFR 14.9(b). The acknowledgment letter will underscore this restriction.

(b) Where the contents of the appeal or request for reconsideration indicate, additional investigation will be conducted and the original action changed if warranted. Except for subpart J of this part, which sets forth separate rules for FCCs, if the relief requested is not warranted the settlement authority will forward the claim to a higher settlement authority with a claims memorandum of opinion (see § 536.62) stating the reasons why the request is invalid.

NOTE TO § 536.68: See also DA Pam 27–162, paragraph 2–78.

§ 536.69 Retention of file.

After final action has been taken, the settlement authority will retain the file until at least one month after either the period of filing suit or the appeal has expired and until all data has been entered into the database. A paid claim file will be retained until final action has been taken on all other claims arising out of the same incident. If any single claim arising out of the same incident must be forwarded to higher authority for final action, all claims files for that incident will be forwarded at the same time. For further discussion see DA Pam 27–162, paragraph 2–79.

§ 536.70 Preparation and forwarding of payment vouchers.

(a) An unrepresented claimant will be listed as the sole payee. Joint claimants will not be listed since settlement agreements must specify the amount payable to each claimant individually